

2003 DRAFTING REQUEST

Bill

Received: 12/20/2002

Received By: btradewe

Wanted: As time permits

Identical to LRB:

For: Mark Miller (608) 266-5342

By/Representing:

This file may be shown to any legislator: NO

Drafter: btradewe

May Contact:

Addl. Drafters:

Subject: Environment - recycling
Environment - solid haz. waste

Extra Copies:

Submit via email: YES

Requester's email: Rep.Miller@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Responsibility for safe disposal of electronic equipment

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/P1	btradewe 08/14/2003	kgilfoy 08/18/2003	pgreensl 08/19/2003	_____	lemery 08/19/2003		State
/1	btradewe 10/30/2003	kgilfoy 11/10/2003	jfrantze 11/11/2003	_____	sbasford 11/11/2003		State

02/09/2004 09:42:54 AM

Page 2

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	btradewe 12/08/2003	kgilfoy 12/08/2003	rschluet 12/08/2003	_____	sbasford 12/08/2003	lemery 02/09/2004	

FE Sent For: ~~02/05/2004~~, 02/05/2004.

("1/2")

<END>

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Requester's email: Rep.Miller@legis.state.wi.us

Carbon copy (CC:) to: robert.marchant@legis.state.wi.us

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Dave
for
ABSM

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11/11/2003 12:41:43 PM

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1/?	btradewe	1/11-8/15 Kmg	8/19 P8	8/19 P8/115			

FE Sent For:

<END>

Tradewell, Becky

From: Gibson-Glass, Mary
Sent: Thursday, December 19, 2002 3:07 PM
To: Tradewell, Becky
Subject: FW: Electronic Waste

This looks like yours, Becky.

Mary

-----Original Message-----

From: Miller, Mark
Sent: Thursday, December 19, 2002 2:37 PM
To: Gibson-Glass, Mary
Subject: Electronic Waste

Ms Gibson-Glass,

Attached are drafting instructions for requiring producers of electronic equipment sold in Wisconsin to assume responsibility for insuring that hazardous materials associated with these products does not enter the waste stream. Will you arrange to have this proposal drafted?

Thank you.

Mark Miller

48th Assembly District

P.O. Box 8953

Madison, WI 53708

Phone 608.266.5342, FAX 608.282.3648

rep.miller@legis.state.wi.us

12/20/2002

Producer Accountability for Electronic Waste

Drafting Instructions

Mark Miller

12/19/02

I. DEFINITIONS

As used in this act, the following terms shall have the meaning provided for herein:

"Producer," means any person irrespective of the sales techniques or channels used to sell their products, including means of distance communication, that:

- manufacturers and sells electronic equipment under its own brand;
- resells under its own brand equipment produced by other suppliers, a reseller not being regarded as the producer if the brand of the actual manufacturer appears on the equipment;
- imports electronic equipment for first sale in this state

"Electronic equipment," means equipment which is dependent on electric currents or electromagnetic fields in order to work properly, contains a circuit board, and contains one or more hazardous substances including lead, mercury, cadmium, beryllium, hexavalent chromium, or brominated flame retardants, and such other hazardous substances as may be determined by the [authorized regulatory official].

"Electronic waste," means electronic equipment which has been discarded, become obsolete, ceased to function, is no longer wanted by its owner, or for any other reason enters the collection, recovery, treatment, processing or recycling system.

"Orphan waste," means electronic waste manufactured by or bearing the brand name of a company which is no longer in business as of the effective date of the requirements of this act.

"Historic waste," means electronic equipment which became electronic waste prior to the effective date of the requirements of this act, the producer of which is still in business.

"Plan," means the plan for producer financed collection, recovery, and recycling of electronic waste as provided for in Section III.

"Recycling," means the reprocessing of the waste materials for the original purpose or for other purposes, but excluding energy recovery or energy generation by means of combusting electronic waste with or without other waste.

"Re-use," means any operation by which electronic waste or components thereof are used for the same purpose for which they were conceived, including the

continued use of the equipment or components thereof which are returned to collection points, recyclers, or producers.

II. FINANCIAL RESPONSIBILITY OF PRODUCERS

Within 24 months following the effective date of this measure, brand owners, producers, and original equipment manufacturers of electronic equipment, as defined herein, shall be responsible for implementing a program for financing the environmentally-sound collection, treatment, recovery, and final disposition of discarded and obsolete electronic equipment, including orphan and historic waste.

Producers are responsible for financing the environmentally sound management of the waste from its own products, but may execute this obligation through collective or individual financing schemes.

The responsibility for financing the management of orphan and historic waste equipment shall be shared proportionally to each producer's respective share of the market, by product type, at the time waste management costs are incurred. This proportional responsibility for orphan and historic waste maybe adjusted by the [state agency] on an annual basis.

Consumers and equipment end users may be responsible for delivering electronic waste into the collection system, as may be provided for in the producer's program Plan, though producers are encouraged to include direct collection or reverse delivery systems in the recovery and reverse logistics systems. Consumers must be able to return electronic waste at least free of charge.

Producers failing to implement financial responsibility program within the time provided for in this act shall be prohibited from selling in this state.

III. SUBMISSION AND APPROVAL OF FINANCIAL RESPONSIBILITY PLAN

Within 6 months of the effective date of this measure, producers of electronic equipment sold in this state shall submit to the Department of Natural Resources for approval a program plan designed to meet their responsibilities under this act. In order to be approved, such a plan must, at a minimum, provide for the following:

1. a plan for financing the collection, treatment, recovery, re-use, and disposition of all products sold by that producer in the state following the effective date of their financial obligation;
2. a plan for financing that producer's share of orphan and historic waste in this state as of the effective date of their financial obligation;
3. a plan for meeting the product recovery and materials reuse and recycling rates as provided for in this measure;
4. a plan for meeting the labeling, consumer notification, and public education requirements of this measure that are necessary to ensure the protection of electronics users, processors and recyclers, and ensure participation in the producer's product recovery program;

5. documentation of the willingness of all necessary parties involved in the producer's product recovery program to implement the proposed collection, handling, treatment, recovery, re-use and recycling system, and assurance that all take back and materials management systems will comply with all applicable existing environmental laws and regulations in this state;
6. a description of the performance measures to be used and reported by the producer to demonstrate that the collection system is meeting recovery and recycling rates, as well as other measures of the program's effectiveness;
7. a description of the alternative or additional actions that will be implemented by the producer to improve the collection, recovery and recycling systems in the event that the program targets are not met.

Within 12 months of the effective date of this measure, or upon approval of the producer's program Plan, whichever is sooner, producers of electronic equipment sold in this state shall provide to the department a financial guarantee equal to [tbd] to ensure that no costs for program evaluation, enforcement, or for the management of orphan and historic waste is borne by taxpayers.

Any producer which fails to meet any of the requirements of this section within the time allotted in this act shall be prohibited from selling electronic equipment to any agency or unit of this state.

IV. BAN ON INCINERATION AND LANDFILLING OF COVERED PRODUCTS

Electronic equipment and electronic waste covered by this act may not be disposed of in landfills, incinerators, cement kilns or other forms of energy recovery or energy generation dependent on combustion of electronic waste.

This ban on disposal shall apply to whole units of electronic waste as well as to the constituent sub-units and/or materials from which the units are made.

V. RESTRICTIONS ON HAZARDOUS MATERIALS

Within five years of the effective date of this measure, producers selling electronic equipment in this state must phase out the use of lead, mercury, cadmium, hexavalent chromium, brominated flame retardants, and polyvinyl chloride and only offer for sale products that contain less harmful alternatives. If a producer provides sufficient demonstration to the department that it is technically impossible to find an alternative, a limited term exemption may be issued. An exemption can be rescinded once it becomes possible to eliminate the substance. If the exemption is granted, the department must assign a limited amount of time before the exemption expires to insure that producers are investing in research and development to identify an appropriate alternative.

VI. LABELING, CONSUMER NOTIFICATION AND PUBLIC EDUCATION

Within twelve months of the effective date of this act, electronic equipment sold in this state must be clearly marked and/or labeled, or informational materials provided with the new product, providing consumers and end users with information relating to the following:

- the hazardous materials contained in the electronic equipment and the parts or sub-units containing the particular substances;
- the requirements not to dispose of electronic equipment in landfills, incinerators or any other means not approved as part of the producer's financial responsibility program plan;
- a toll-free phone number and/or web site URL where consumers can obtain information and instructions about the safe disposition of the electronic product through the producer's financial responsibility program plan.

As part of an approved program Plan, a producer selling electronic equipment in this state must take appropriate steps to implement a consumer education plan that is designed to ensure that consumers and users of electronic equipment understand:

- the prohibition on disposal of electronic waste by any means not included as part of the producer's approved program Plan;
- the electronic waste return and collection systems available to them;
- the potential effects on the environment and human health as a result of the presence of hazardous substances contained in electronic equipment and the dangers of improper disposal; and
- the consumers' and/or users' roles in contributing to the re-use, recycling, and other forms of electronic waste recovery.

Within 24 months following implementation of the producer's financial responsibility program, each producer must demonstrate that it has achieved a level of 85% public awareness of the program for each of its covered product categories through independent public polling. Producers may collectively undertake such a demonstration of public awareness so long as the polling instrument is designed to identify public awareness of a majority of producers' programs or a majority of the electronic equipment types covered by this act. The design, protocols and implementation plan for the opinion polling required in this section must be approved by the department.

As part of an approved program Plan, and in order to facilitate the correct and environmentally sound treatment of electronic waste, producers must demonstrate adequate measures to provide information to recyclers and processors for their electronic equipment. Within one year after new electronic equipment enters the market, producers shall provide new information to recyclers and processors regarding the end of life treatment of the new product relating to disassembly, material content, and safety concerns.

VII. ENVIRONMENTAL PERFORMANCE REQUIREMENTS

Equipment recovery and recycling

Orphan and historic waste: For orphan and historic waste, as defined in Section I, producers are responsible for demonstrating:

- within 2 years of effective date of financial responsibility, collection of electronic waste equal to or greater than 2 kilograms/person/year in this state and re-use/recycling of electronic waste equal to 1.5 kilograms/person/year; and,
- within 5 years of effective date of financial responsibility, collection of electronic waste equal to 4 kilograms/person in this state and re-use/recycling of electronic waste equal to 3.5 kilograms/person/year.

Electronic waste generated after effective date: For electronic waste generated after the effective date of financial responsibility, producers are responsible for demonstrating:

- within 2 years of effective date of financial responsibility, recovery equal to 75% (by number) of their products sold in this state and 65% re-use/recycling of the components and materials contained in their products; and
- within 5 years of effective date of financial responsibility, recovery equal to 90% (by number) of their products sold in this state and 95% re-use/recycling of the components and materials contained in their products.

As an alternative to the above, producers may substitute the following standard for those areas where the meeting the above standard is difficult to accomplish or document :

Producers selling electronic products in this state under an approved plan for producer financed collection, recovery and recycling of electronic waste must provide:

- within 2 years of financial responsibility, 3 collection and recovery points per 10,000 persons population [?];
- within 5 years of financial responsibility, 6 collection and recovery points per 10,000 persons population [?]

All persons collecting, recovering, and recycling electronic waste as part of an approved producer financed plan must protect the health and safety of their workers and contractors by:

- providing clear evidence of compliance with all state and federal occupational safety and health laws and regulations;
- performing routine industrial hygiene monitoring and quarterly reporting for all facilities for all hazardous materials of concern, including but not limited to monitoring for airborne lead and bromine, chlorine, and mercury compounds;
- performing routine human health monitoring and quarterly reporting (in accordance with all applicable privacy protections) for all workers and

contractors, including but not limited to blood testing for exposure to lead and bromine, chlorine, and mercury compounds.

Prison labor. No plan for producer financed collection, recovery and recycling of electronic waste may include reliance on prison labor unless all incarcerated workers involved in the processing and recycling of electronic waste are provided with compensation equivalent to market rate wages for the work performed and are afforded the protections of state occupational safety and health laws and regulations, as well as the additional worker safety and health protections required by this section.

Ban on Hazardous Waste Export. In order to be approved by [state agency], a producer's program Plan for financing the collection, recovery, treatment, processing, and recycling of electronic waste must forbid the export of electronic waste to countries which are not members of the Organization for Economic Cooperation and Development (OECD). As part of their annual program reports to the department], producers must document that the program has not resulted in the overseas export of electronic waste to any non-OECD country.

VIII. STATE PROCUREMENT AND PURCHASING

Within 6 months following passage of this act, the state and each of its units, departments, and agencies shall establish purchasing and procurement policies requiring vendors of electronic equipment sold to the state to take back electronic waste when the equipment becomes obsolete, is discarded or is otherwise taken out of service. State purchasing and procurement policies shall also establish a preference for electronic equipment that meets specified environmental performance standards relating to the reduction or elimination of hazardous materials.

IX. REPORTING, MONITORING, COMPLIANCE, AND PENALTIES

Program Plans required under Section III shall be submitted to, reviewed by, and approved by the department [DNR]. Plans will be evaluated based upon their sufficiency in light of all the required elements and the department shall develop a means for scoring initial submissions and providing feedback to producers for integration into their final plans.

Reports detailing performance of the producer's financial responsibility program and detailing compliance with all the requirements set forth above must be submitted annually to the department. All such reports are to be reviewed within six months of their submission and notices of deficiency or non-compliance provided by [the state agency] to producers by the end of the following quarter.

Annual reports required under this section and all other reports outlining the results of producer's program for the current year and two prior years must be made available to the general public through the internet.

The department may establish a multi-stakeholder Oversight and Advisory Committee to oversee program plan implementation, review annual reports, and recommended additions, modifications or deletions to the requirements of this act.

X. PRIVATE RIGHT OF ENFORCEMENT

Each person, including future generations, has the right to a healthful environment and protection from contamination resulting from disposal of electronic waste. Each person may enforce this right, as well as enforce the provisions and requirements of this act, against any party, government or private, through appropriate legal proceedings, including declaratory and equitable relief, civil penalties, and restoration damages, to protect the public health and environment of this state from pollution, impairment or destruction resulting from electronic waste.

“Environment” includes but is not limited to all the state’s natural resources including land, air and water resources, and plant and animal species, and the habitat upon which they depend.

The court may award the full costs of litigation, including but not limited to reasonable expert witness and attorney’s fees, to the plaintiffs should they prevail.

This provision is supplementary to existing rights and procedures provided by law.

XI. PRESUMPTION OF LIABILITY

Contamination of landfills with heavy metals including but not limited to lead, mercury, beryllium, and chromium, as well as contamination of the soil and groundwater surrounding landfills, in this state is presumed to result, unless proven otherwise, from the growing concentration of discarded electronic equipment in the municipal waste stream.

XII. EFFECTIVE DATE

The effective date for all provisions except for the state procurement and purchasing provisions shall be the date upon which substantially similar legislation is adopted by states representing 10% of the U.S. population. The Attorney General for Wisconsin shall determine and declare when this criteria is met. The Attorney General’s declaration is subject to court review.

Tradewell, Becky

From: Miller, Mark
Sent: Friday, February 21, 2003 7:26 PM
To: Tradewell, Becky
Cc: Kuhn, Jamie
Subject: electronic waste request, LRB 1238/?

Importance: High

Ms Tradewell,

Will you update my office on the status of the requested legislation regarding responsibility for disposal of electronic waste (LRB 1238/?). I will be meeting with experts on Wednesday February 25 and would like to be able to either review the draft at that time or have any questions you have as the drafter available for decision. Thank you.

Mark Miller

48th Assembly District

P.O. Box 8953

Madison, WI 53708

Phone 608.266.5342, FAX 608.282.3648

rep.miller@legis.state.wi.us

02/24/2003

Tradewell, Becky

From: Miller, Mark
Sent: Tuesday, February 25, 2003 4:51 PM
To: Tradewell, Becky
Subject: RE: electronic waste request, LRB 1238/?

Becky,

You posed a lot of good questions. Thank you for being so thorough. Many of your questions raise issues that did not occur to me when composing the instructions. This proposal is based on model legislation which is being considered in 12 other states. I will need to see which, if any, of these issues were addressed in any of those states.

Mark Miller

-----Original Message-----

From: Tradewell, Becky
Sent: Tuesday, February 25, 2003 3:31 PM
To: Miller, Mark
Cc: Kuhn, Jamie
Subject: RE: electronic waste request, LRB 1238/?

Representative Miller,

I have attached a paper identifying issues concerning the drafting request concerning the disposal of electronic equipment. I have produced this in something of a hurry, so I hope that it is comprehensible. Please be aware that it is likely that other issues will arise during drafting. There also seem to be some legal matters that I will need to research, such as whether there may be Commerce Clause issues raised by this proposal.

I hope that this is helpful.

Becky Tradewell
Managing Attorney
Legislative Reference Bureau
266-7290

02/26/2003

Tradewell, Becky

From: Miller, Mark

Sent: Tuesday, April 08, 2003 6:20 PM

To: Tradewell, Becky

Subject: Electronic Waste

Ms Tradewell,

Attached are the responses to the issues you raised regarding the bill I requested to restrict electronic waste. I hope these changes are clear. Please contact me to clarify any questions.
Thank you.

Mark Miller

48th Assembly District

P.O. Box 8953

Madison, WI 53708

Phone 608.266.5342, FAX 608.282.3648

rep.miller@legis.state.wi.us

04/09/2003

February 25, 2003

Issues concerning the proposal for producer accountability for electronic waste

I. Definitions

In the definition of "producer," what does "for first sale in this state" mean?

Do you intend to authorize DNR to promulgate rules specifying additional hazardous substances that would cause a piece of equipment to be covered by the proposal? (See the end of the definition of "electronic equipment.") Note that there may be practical difficulties in dealing with equipment that contains a hazardous substance that is added to the definition after this proposal takes effect if the equipment was manufactured before the hazardous substance is added to the definition.

The definition of "electronic waste" might be interpreted to include a piece of equipment that someone donates or sells to another user. If that is not intended, the definition should be clarified. It is not clear what the "collection, recovery, treatment, processing or recycling system" is.

II. Financial responsibility of producers

Most of this proposal applies to producers, but the first paragraph of this section of the proposal also imposes responsibility on brand owners and original equipment manufacturers. What are the specific requirements, if any, that are intended to be imposed on brand owners and original equipment manufacturers that are not producers (under the definition in Section I)?

The proposal indicates that a producer who fails to implement a financial responsibility program shall be prohibited from selling in this state. Other persons may sell a producer's products in this state even if the producer itself does not sell anything in this state. Would you want the prohibition to apply to other persons selling the products of a producer who fails to implement a financial responsibility program?

III. Submission and approval of financial responsibility plan

The proposal indicates that a plan must provide for financing the collection, etc., of all products sold by a producer in the state. Someone other than the producer may be selling the products in this state, so do you want this to refer to all of the producer's products that are sold in the state? By "products" I assume that the proposal means electronic equipment.

The proposal requires a producer to provide to DNR a financial guarantee to ensure that the costs for the program are not borne by taxpayers. It seems to me that there are two different kinds of costs to be considered. There are certain to be costs for program evaluation and for enforcement (which are mentioned in the proposal) and it seems that

there would be other administrative costs, such as for reviewing plans. Do you want to require producers to bear all of these costs? This kind of cost would typically be covered by fees. It is not clear to me whether the language about a "financial guarantee" contemplates payment of fees to DNR. The other costs mentioned by the proposal are "for the management of orphan and historic waste." This seems to contemplate costs that would be incurred only if the producers failed to carry out their responsibilities under the proposal. I am familiar with some statutes that require the provision of proof of financial responsibility (in forms such as letters of credit or surety bonds) by various entities. See for example ss. 93.35 (7), 100.175 (5) (a), 101.143 (6) (a), and 298.41. Is that the kind of requirement that you have in mind? Please note that the proposal does not indicate the amount of the financial guarantee that would be required.

The proposal indicates that a producer that fails to meet the requirements related to the financial responsibility plan and financial guarantee would be prohibited from selling electronic equipment to the state. I am confused about the difference between this penalty and the penalty in section II.

IV. Ban on incineration and landfilling

The current recycling law restricts the disposal of various products in this state (including major appliances, defined in s. 287.01 (3), some of which are electronic equipment). See s. 287.07. There are exceptions to most of the restrictions. Am I correct in understanding that you want a ban on the landfilling and incineration of all electronic equipment and any part of a piece of electronic equipment without regard to whether that piece contains any hazardous substance?

What penalties would you want for a violation of the ban? The penalties for the current bans are in s. 287.95.

V. Restrictions on hazardous materials

I noticed that the list of hazardous materials in this section is almost the same as the list in the definition of electronic equipment. The only difference is that the definition includes beryllium (and possibly other substances identified by DNR). Is that your intent?

It appears that if a producer stops using the materials listed in this section (and does not use beryllium), then the equipment manufactured by the producer will no longer be subject to regulation under the rest of the proposal. Is that correct?

Again, this provision applies to producers selling electronic equipment in this state. Should the prohibition apply more broadly to the sale by any person of equipment containing the listed materials?

VI. Labeling, consumer notification and public education

What would happen if the required level of public awareness were not demonstrated?

VII. Environmental performance requirements

The requirements of this section are written in the plural and it is not clear to me what an individual producer is required to do. The amount of collection and reuse or recycling required in the provision related to orphan and historic waste looks to me as though it would be a total amount for all producers. If so, how would each producer show that it is doing its share? Or should some other showing be required?

Am I correct in assuming that each producer must make the demonstration concerning electronic waste generated after the effective date? How would the percentage requirement concerning reuse or recycling of components and materials be measured? (It does not seem as though measuring by number would work with components and materials.)

It looks like the alternative method of showing compliance, requiring a certain number of collection points, would be a total number of points for all producers. What would an individual producer be responsible for?

Would the reporting related to the health and safety of workers be made to DNR? The proposal requires monitoring and reporting for "all hazardous materials of concern." Who would determine which substances fall into that category? Would these requirements apply to workers in this state or more broadly?

I will need to do some research into Wisconsin's laws about work performed by persons in prison before I draft the language on prison labor. Is this part of the proposal intended to apply to work done in this state?

VIII. State procurement and purchasing

This section requires a preference for electronic equipment that meets "specified environmental performance standards." Is this meant to refer to existing standards? If so, which ones? If not, who should establish these standards?

IX. Reporting, monitoring, compliance, and penalties

Should the requirement to post reports on the Internet be imposed on DNR or on producers?

X. Private right of enforcement

Who would be liable for injuries caused by electronic waste? Would a person who produced electronic equipment before this proposal takes effect be liable? Would a

person who produces electronic equipment after this proposal takes effect and who complies with the requirements of the proposal be liable if someone else disposed of the equipment improperly? A person who placed electronic waste in a landfill before this proposal takes effect? I think that we need to make clear the legal effect intended by this language, if that effect extends beyond enforcing the provisions of the rest of the proposal.

XI. Presumption of liability

Is this intended to apply in a case (under the Superfund law, for example) involving contamination from a landfill in which the parties who generated the waste are trying to apportion liability among themselves? Again, I think we need to make clear the precise legal effect intended by this provision.

XII. Effective date

When the effectiveness of a law is made dependent on a finding, as in this proposal, it may be difficult for persons regulated by the law to know when the law takes effect. It might be helpful to require public notice of some kind.

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Producer Accountability for Electronic Waste

Response to Drafting Issues

Tradewell memo 2/25/03

4/08/03

Issues concerning the proposal for producer accountability for electronic waste

I. Definitions

In the definition of "producer," what does "for first sale in this state" mean?

Replace draft definition with the following definition,

"Producer", means any person who, as of the effective date of this act: (a) manufactures and sells electronic equipment under its own brand; (b) manufactures and sells electronic equipment without affixing a brand; or (c) resells equipment produced by other suppliers under its own brand. The term producer applies irrespective of sales techniques or channels used, including means of distance communication."

Do you intend to authorize DNR to promulgate rules specifying additional hazardous substances that would cause a piece of equipment to be covered by the proposal? (See the end of the definition of "electronic equipment.")

Yes.

Note that there may be practical difficulties in dealing with equipment that contains a hazardous substance that is added to the definition after this proposal takes effect if the equipment was manufactured before the hazardous substance is added to the definition.

When promulgating rules identifying a new hazardous material that will expand the category of electronic equipment subject to the provisions of the bill, DNR will, within its rules, specify the dates when producers of the equipment must comply with the date for submission of a plan, date for performance guarantee, and for implementation of the plan. Producers must be allowed at least six months for submission of a plan and submission of a performance guarantee, and a minimum of 12 months for implementation of its plan. The DNR may grant a waiver from the requirements of the bill for producers whose total annual share of electronic equipment sold in Wisconsin is less than 0.1% of the electronic equipment sold in the state. The DNR may determine the conditions of the waiver and impose penalties for a producer failure to comply with those conditions. The DNR may charge a fee for granting a waiver.

The definition of "electronic waste" might be interpreted to include a piece of equipment that someone donates or sells to another user. If that is not intended, the definition should be clarified.

The definition is not intended to cover donated or re-sold equipment. The present language should address that concern since donated or re-sold equipment would not have entered the system for processing and/or recycling.

It is not clear what the "collection, recovery, treatment, processing or recycling system" is.

Perhaps this phrase can be clarified by amending the final clause to read "or for any other reason is intended for recycling or has entered the solid waste stream."

Add a new definition:

"Hazardous electronic waste", mean electronic equipment, components, constituent subunits or materials from which the subunits are made, that contain concentrations of toxic materials exceeding the regulatory levels established in Title 40 C.F.R. part 261.24 using the toxic characteristic leaching procedure."

II. Financial responsibility of producers

Most of this proposal applies to producers, but the first paragraph of this section of the proposal also imposes responsibility on brand owners and original equipment manufacturers. What are the specific requirements, if any, that are intended to be imposed on brand owners and original equipment manufacturers that are not producers (under the definition in Section I)?

Strike the terms "brand owner" and "original equipment manufacturers." The definition of producer is sufficient.

The proposal indicates that a producer who fails to implement a financial responsibility program shall be prohibited from selling in this state. Other persons may sell a producer's products in this state even if the producer itself does not sell anything in this state. Would you want the prohibition to apply to other persons selling the products of a producer who fails to implement a financial responsibility program?

Only "producers" are responsible. I do not intend to penalize retailers except as a result of brands they carry failing to meet their legal obligations in Wisconsin.

III. Submission and approval of financial responsibility plan

The proposal indicates that a plan must provide for financing the collection, etc., of all products sold by a producer in the state. Someone other than the producer may be selling the products in this state, so do you want this to refer to all of the producer's products that are sold in the state?

Yes, all electronic equipment the producer sells in the state.

By "products" I assume that the proposal means electronic equipment.

Yes, sorry.

Additional subsection of Section III (add to the enumerated list of plan requirements)

8. Annual sales data on the number and type of electronic products sold by the manufacturer in this state over the ten years preceding the filing of the plan for televisions, and five years preceding filing of the plan for computers and computer equipment, cell phones and other electronic equipment. A producer may choose to allow the DNR to estimate the producer's sales rather than submit sales data. DNR will add 10% of the estimated sales to determine the share for producers who choose

to allow DNR to estimate the sales. This effectively increases the liability for producers who choose this option while reducing the liability for producers who submit sales data.

The proposal requires a producer to provide to DNR a financial guarantee to ensure that the costs for the program are not borne by taxpayers. It seems to me that there are two different kinds of costs to be considered. There are certain to be costs for program evaluation and for enforcement (which are mentioned in the proposal) and it seems that there would be other administrative costs, such as for reviewing plans. Do you want to require producers to bear all of these costs?

Yes. All costs for administering the program are to be born by producers. DNR is authorized to establish a fee schedule for submission of plans and a periodic fee for participation in the program. The fee schedule should reflect the quantity of electronic waste generated in Wisconsin by the producer and be sufficient to cover the estimated cost to administer the program.

This kind of cost would typically be covered by fees. It is not clear to me whether the language about a "financial guarantee" contemplates payment of fees to DNR. The other costs mentioned by the proposal are "for the management of orphan and historic waste." This seems to contemplate costs that would be incurred only if the producers failed to carry out their responsibilities under the proposal. I am familiar with some statutes that require the provision of proof of financial responsibility (in forms such as letters of credit or surety bonds) by various entities. See for example ss. 93.35 (7), 100.175 (5) (a), 101.143 (6) (a), and 298.41. Is that the kind of requirement that you have in mind? Please note that the proposal does not indicate the amount of the financial guarantee that would be required.

I contemplate a surety bond provided by the producer to ensure the state is held harmless for costs associated with non-performance of legal obligations. I'm not sure what an appropriate amount should be, but a bond equal to the greater of \$300,000 or 10% of the producer's prior year's sales in Wisconsin might be sufficient. Any suggestions?

The proposal indicates that a producer that fails to meet the requirements related to the financial responsibility plan and financial guarantee would be prohibited from selling electronic equipment to the state. I am confused about the difference between this penalty and the penalty in section II.

A producer who fails to submit a plan of financial responsibility within 12 months of the bill's passage cannot sell to an agency of the state. This creates an incentive/disincentive for meeting their first obligation. A producer who fails to implement their approved plan for financial responsibility within 24 months following the bill's passage is prohibited from selling in Wisconsin. This creates an incentive for producers to put in place what they committed to in their plans.

IV. Ban on incineration and landfilling

The current recycling law restricts the disposal of various products in this state (including major appliances, defined in s. 287.01 (3), some of which are electronic equipment). See s. 287.07. There are exceptions to most of the restrictions. Am I correct in understanding that you want a ban on the landfilling and incineration of all electronic equipment and any

part of a piece of electronic equipment without regard to whether that piece contains any hazardous substance?

This is addressed by adding the definition of "Hazardous electronic waste" as per above, and by amending the opening line of this provision to read "Hazardous electronic waste covered by this act may not be disposed..." In addition, the following materials are banned from landfills as of [revisor inserts date that is January 1 at least 12 months from the adoption of the act] for the following items:

- Televisions and video displays**
- Computer Monitors (CRTs and flat panels)**
- Desktop/tower computers**
- Laptop Computers**
- Printers**
- Portable phones**
- Rechargeable batteries from mobile phones and other portable electronic devices.**

What penalties would you want for a violation of the ban? The penalties for the current bans are in s. 287.95.

The penalties for the current disposal bans are sufficient.

V. Restrictions on hazardous materials

I noticed that the list of hazardous materials in this section is almost the same as the list in the definition of electronic equipment. The only difference is that the definition includes beryllium (and possibly other substances identified by DNR). Is that your intent?

Yes.

It appears that if a producer stops using the materials listed in this section (and does not use beryllium), then the equipment manufactured by the producer will no longer be subject to regulation under the rest of the proposal. Is that correct?

Yes.

Again, this provision applies to producers selling electronic equipment in this state. Should the prohibition apply more broadly to the sale by any person of equipment containing the listed materials?

The prohibition should apply to the first sale – either the producer directly to the purchaser or the producer to the retailer for sale in Wisconsin. Retailers can not control the toxic content of products produced and sold by others and should not be held responsible.

VI. Labeling, consumer notification and public education

What would happen if the required level of public awareness were not demonstrated?

Add the following language to address this:

"If the required level of public awareness is not demonstrated, the producer or producers (if undertaken collectively by two or more producers) must submit to the DNR, within 3 months, a remedial plan for additional public education regarding their program or

programs for managing electronic waste. Within 12 months following submission of the remedial plan, the producer (or producers collectively) must demonstrate that it has achieved 85 percent public awareness. A second failure to meet the required level of public awareness shall result in a penalty of \$10,000 for each percentage point below the required 85 percent level."

VII. Environmental performance requirements

The requirements of this section are written in the plural and it is not clear to me what an individual producer is required to do. The amount of collection and reuse or recycling required in the provision related to orphan and historic waste looks to me as though it would be a total amount for all producers. If so, how would each producer show that it is doing its share? Or should some other showing be required?

Please see substitute language below. Responsibility for historic and orphan waste is collective responsibility, with each producer financially responsible for that portion of the historic and orphan waste equal to its then-current market share. This is implicit in an earlier section about financial responsibility for historic and orphan waste.

Am I correct in assuming that each producer must make the demonstration concerning electronic waste generated after the effective date? How would the percentage requirement concerning reuse or recycling of components and materials be measured? (It does not seem as though measuring by number would work with components and materials.)

Your assumption is correct for waste generated after the effective date – that is, each producer is individually responsible though has the option of undertaking a program in concert with one or more other producers. The substitute language below addresses the question about measurement. Prior additional language for the plan producers are required to submit will generate the necessary baseline information.

Substitute language

Equipment recovery and recycling

Orphan and historic waste: For orphan and historic waste, as defined in Section 1, producers selling electronic products in this state are responsible for demonstrating, on a collective basis

- within 2 years of the effective date of financial responsibility, collection of electronic waste equal to or greater than 2 kilograms per person per year in this state and is re-using or recycling at least 1.5 kilograms per person each year of that waste;
- within 5 years of effective date of financial responsibility, collection of electronic waste equal to 4 kilograms per person per year in this state and is re-using or recycling at least 3.5 kilograms per person per year of that waste.

Electronic waste generated after effective date: For electronic waste generated after the effective date of financial responsibility, each producer is responsible for demonstrating

- within 2 years of effective date of financial responsibility, recovery of electronic waste equal to 75 percent by number of the producer's products sold in this state and 65 percent reuse or recycling of the components and materials contained in their products;
- within 5 years of effective date of financial responsibility, recovery equal to 90 percent by number of the producer's products sold in this state and reuse or recycling of 95% of the components and materials contained in their products.

Two or more producers selling electronic equipment in this state may join together to meet their responsibilities for electronic waste generated after the effective date of financial responsibility collectively. Producers meeting their equipment recovery and recycling obligations collectively shall meet the required percentages for the total number of products sold by the producers operating collectively.

It looks like the alternative method of showing compliance, requiring a certain number of collection points, would be a total number of points for all producers. What would an individual producer be responsible for?

Strike this alternative method.

Would the reporting related to the health and safety of workers be made to DNR?

DWD.

The proposal requires monitoring and reporting for "all hazardous materials of concern." Who would determine which substances fall into that category?

Should include those substances detailed in the section detailing restrictions on hazardous substances.

Would these requirements apply to workers in this state or more broadly?

For purposes of this legislation, the requirement would apply to workers in the state of Wisconsin.

I will need to do some research into Wisconsin's laws about work performed by persons in prison before I draft the language on prison labor. Is this part of the proposal intended to apply to work done in this state?

Yes, it would be difficult to reach work done in other states.

VIII. State procurement and purchasing

This section requires a preference for electronic equipment that meets "specified environmental performance standards." Is this meant to refer to existing standards? If so, which ones? If not, who should establish these standards?

DOA can establish the environmental performance standards. I adopting such standards, DOA will consider congruence with similar standards adopted by other states.

IX. Reporting, monitoring, compliance, and penalties

Should the requirement to post reports on the Internet be imposed on DNR or on producers?

It should be imposed on the producers, and the producers shall permit direct links to these reports from relevant pages of the DNR web site, without obligation on the DNR itself to post or manage the reports.

X. Private right of enforcement

Who would be liable for injuries caused by electronic waste? Would a person who produced electronic equipment before this proposal takes effect be liable? Would a person who produces electronic equipment after this proposal takes effect and who complies with the requirements of the proposal be liable if someone else disposed of the equipment improperly? A person who placed electronic waste in a landfill before this proposal takes effect? I think that we need to make clear the legal effect intended by this language, if that effect extends beyond enforcing the provisions of the rest of the proposal.

Delete private right of enforcement.

XI. Presumption of liability

Is this intended to apply in a case (under the Superfund law, for example) involving contamination from a landfill in which the parties who generated the waste are trying to apportion liability among themselves? Again, I think we need to make clear the precise legal effect intended by this provision.

Delete the presumption of liability.

XII. Effective date

When the effectiveness of a law is made dependent on a finding, as in this proposal, it may be difficult for persons regulated by the law to know when the law takes effect. It might be helpful to require public notice of some kind.

Note that the landfill prohibition for specific items (added) is also not dependent on a finding. What do you recommend in terms of notice? I would think that an effective date 90 days after public notice should be sufficient.

Mark Miller
266-5342

Tradewell, Becky

From: Miller, Mark
Sent: Thursday, July 24, 2003 10:11 AM
To: Tradewell, Becky
Cc: Kuhn, Jamie
Subject: E-waste legislation in other states

Ms Tradewell,

E-waste legislation has been introduced in over 20 states. The states which have introduced legislation most similar to my request are ME, MN, RI, VT, and WA.

Links to the legislation in these states are listed below. The MN Senate recently passed the bill out of their house.

Maine <http://janus.state.me.us/legis/LawMakerWeb/summary.asp?LD=743>

Minnesota [http://www.revisor.leg.state.mn.us/cgi-bin/getbill.pl?](http://www.revisor.leg.state.mn.us/cgi-bin/getbill.pl?session=ls83&version=latest&session_number=0&session_year=2003&number=sf838)

[session=ls83&version=latest&session_number=0&session_year=2003&number=sf838](http://www.rilin.state.ri.us/BillText/BillText03/HouseText03/H5783.pdf)

Rhode Island <http://www.rilin.state.ri.us/BillText/BillText03/HouseText03/H5783.pdf>

Vermont <http://www.leg.state.vt.us/database/status/summary.cfm?Bill=H.0343&Session=2004>

Washington <http://www.leg.wa.gov/wsladm/billinfo/dspBillSummary.cfm?billnumber=1942>

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State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1238/P1
RCT&RJM:....

wanted 8/20, if possible

King

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Note

Gen. Cat.

1 AN ACT *Gen. Cat.*; relating to: the disposal of electronic equipment, producer
2 responsibility for electronic devices that are discarded, state purchasing of
3 electronic equipment, granting rule-making authority, making an
4 appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

✓
Ins. RJM →
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 SECTION 1. 20.370 (2) (hg) of the statutes is created to read:

6 20.370 (2) (hg) Producer responsibility for ~~electric~~ ^{electronic} waste. All moneys received

7 under s. 287.17 (6) and (14) for the cost of administering the electronic waste program

8 under ss. 287.07 (5) and (6) and 287.17.

9 SECTION 2. 287.07 (5) ^{and (6)} of the statutes ^{are} created to read:

1 287.07 (5) ELECTRONIC DEVICES. Beginning on January 1 of the first year that
2 begins at least 365 days after the effective date of this subsection [revisor inserts
3 date], no person may dispose of any of the following in a solid waste disposal facility:

4 (a) A television or a video display.

5 (b) A computer monitor.

6 (c) A computer.

7 (d) A printer.

8 (e) A mobile telephone.

9 (f) A rechargeable battery from a mobile telephone or other portable electronic
10 device.

11 (6) HAZARDOUS ELECTRONIC WASTE. (a) In this subsection:

12 1. "Electronic equipment" has the meaning given in s. 287.17 (1) (c). ✓

13 2. "Hazardous electronic waste" means a piece of electronic equipment, a
14 component of electronic equipment, or a ✓ material removed from electronic
15 equipment if, using the toxicity characteristic leaching procedure specified in 40
16 CFR 261.24, the extract from a representative sample of the electronic equipment,
17 component, or material contains any of the contaminants listed in 40 CFR 261.24,
18 table 1, at a concentration equal to or greater than the value given in that table.

19 (b) Beginning on the effective date under s. 287.17 (2) (b), ✓ no person may do any
20 of the following:

21 1. Dispose of hazardous electronic waste in a solid waste disposal facility.

22 2. Convert hazardous electronic waste into fuel.

23 3. Burn hazardous electronic waste in a solid waste treatment facility.

24 SECTION 3. 287.17 of the statutes is created to read:

287.17 Producer accountability for electronic waste. (1) DEFINITIONS.

In this section:

(a) "Covered electronic equipment" means electronic equipment that contains one or more of the following substances:

1. Lead.
2. Mercury.
3. Cadmium.
4. Beryllium.
5. Hexavalent chromium.
6. Brominated flame retardants.

7. Any other substance specified by the department under sub. (12). ✓

(b) "Covered electronic waste" means covered electronic equipment that has been discarded. "Covered electronic waste" does not include electronic equipment that has been donated for reuse or sold for reuse.

(c) "Electronic equipment" means equipment that requires electric current or electromagnetic fields to function and that contains a circuit board. ✓

(d) "Orphan covered waste" means covered electronic equipment to which either of the following applies:

1. If the covered electronic equipment ^{is discarded} becomes covered electronic waste on or after the effective date under sub. (2) (b), the covered electronic equipment becomes covered electronic waste ^{is discarded} in this state at a time when the producer of the covered electronic equipment is out of business or does not sell covered electronic equipment in this state.

2. If the covered electronic equipment ^{is discarded} becomes covered electronic waste before the effective date under sub. (2) (b), the producer of the covered electronic equipment

SECTION 3

1 is out of business or does not sell covered electronic equipment in this state on the
2 effective date under sub. (2) (b).

3 (e) “Producer” means a person that does any of the following:

4 1. Manufactures and sells covered electronic equipment under its own brand.

5 2. Manufactures and sells covered electronic equipment without affixing a
6 brand.

7 3. Resells covered electronic equipment manufactured by others under the
8 person’s own brand.

9 (f) “Program” means the actions that are taken to carry out a plan approved
10 under sub. (4).

11 (g) “Recycling” means processing waste materials to prepare them to be used
12 for the same or a different use. “Recycling” does not include burning waste with or
13 without energy recovery.

14 (h) “Reuse” means to use covered electronic equipment or a component of
15 covered electronic equipment for its original use.

16 (2) EFFECTIVE DATE. (a) The attorney general shall determine when legislation
17 substantially similar to subs. (3) to (14) is adopted by states whose total population,
18 including this state’s population, equals at least 10% of the population of the United
19 States, based on the most recent federal decennial census. The attorney general
20 shall notify the department and publish a class 1 notice, under ch. 985, of the
21 determination and give any other notice of the determination that the attorney
22 general determines is appropriate.

23 (b) The effective date for subs. (3) to (14) and s. 287.07 (6) is the first day of the
24 4th month beginning after the attorney general publishes the notice under par. (a).

judicial

(1) (c) The determination of the attorney general under par. (a) is subject to review
(2) ~~in court.~~

3 (3) PLAN. (a) Except as provided under sub. (13), no later than the first day of
4 the 6th month beginning after the effective date under sub. (2) (b), a producer that
5 sells covered electronic equipment in this state shall submit to the department a plan
6 that includes all of the following:

7 1. Provisions, designed to achieve the performance requirements in sub. (7) (a),
8 under which the producer finances the collection, transportation, and reuse,
9 recycling, treatment, or disposal, in a manner that is consistent with all
10 requirements under state law, of covered electronic equipment sold by the producer
11 ~~that becomes covered electronic waste~~ *is discarded* in this state.

12 2. Provisions, designed to achieve the performance requirements in sub. (7) (b),
13 under which the producer finances the collection, transportation, and reuse,
14 recycling, treatment, or disposal, in a manner that is consistent with all
15 requirements under state law, of the producer's share, ~~of orphan waste~~ *of orphan covered waste*
16 under sub. (7) (c).

17 3. Provisions to ensure compliance with the worker protection requirements in
18 sub. (7) (d) and (e).

19 4. Provisions for meeting the labeling requirements in sub. (8).

20 5. Provisions for meeting the consumer education requirements in sub. (9).

21 6. Provisions for meeting the requirements for providing information to
22 recyclers in sub. (10).

23 7. A description of actions that will be implemented by the producer if the
24 provisions under subd. 1. or 2. fail to achieve the performance requirements in sub.
25 (7) (a) or (b).

1 8. Documentation that all persons whose participation is needed to implement
2 the provisions under subds. 1. and 2. are willing to participate.

3 9. One of the following:

4 a. Information concerning the number of televisions sold by the producer in this
5 state during each of the 10 years before the year in which the producer submits the
6 plan and information concerning the number and type of computers, mobile
7 telephones, and other pieces of covered electronic equipment sold by the producer in
8 this state during each of the 5 years before the year in which the producer submits
9 the plan.

10 b. A statement that the producer prefers to have the department estimate
11 under sub. (7) (c) the producer's sales of covered electronic equipment in this state.

12 10. A provision forbidding the export of covered electronic waste collected
13 under the plan to any country that is not a member of the Organization for Economic
14 Cooperation and Development.

15 (b) A producer may not include in a plan under par. (a) a requirement that
16 persons who wish to discard covered electronic equipment pay a fee to discard the
17 covered electronic equipment, but may require those persons to deliver covered
18 electronic equipment to a collection point.

19 (c) A producer may provide for a person other than the producer to implement
20 portions of a plan under par. (a) and may provide for implementation of portions of
21 a plan jointly with other producers.

22 (4) REVIEW OF PLAN. The department shall review a plan submitted under sub.
23 (3) to determine whether the plan complies with the requirements of that subsection.
24 The department shall notify a producer of any deficiencies in the producer's plan.
25 If an original or modified plan complies with the requirements of sub. (3), the

1 department shall approve the plan. If a producer fails to remedy deficiencies in the
2 producer's plan by a deadline set by the department, the department shall
3 disapprove the plan and the producer may not sell covered electronic equipment in
4 this state.

5 (5) IMPLEMENTATION. Upon approval under sub. (4) of a producer's plan, the
6 producer shall begin to implement the plan. A producer shall fully implement its
7 plan no more than 12 months after the department approves the plan under sub. (4).

8 (6) PROOF OF FINANCIAL RESPONSIBILITY. Except as provided under sub. (13), a
9 producer may not sell covered electronic equipment in this state beginning on the
10 first day of the 12th month beginning after the effective date under sub. (2) (b) or on
11 the first day of the 2nd month beginning after the approval of the producer's plan
12 under sub. (4), whichever is earlier, unless the producer files with the department
13 a surety bond in an amount equal to \$300,000 or 10% of the dollar amount of the sales
14 of covered electronic equipment by the producer in this state in the year before the
15 producer files the bond, whichever is greater, conditioned on the performance by the
16 producer of all of the requirements of this section.

17 (7) PERFORMANCE REQUIREMENTS. (a) To achieve the performance requirements
18 for covered electronic equipment sold by the producer that ~~becomes covered~~
19 ~~electronic waste~~ ^{is discarded} in this state, a producer must demonstrate all of the following:

20 1. That, no later than the first day of the 24th month beginning after approval
21 of the producer's plan under sub. (4), the number of pieces of covered electronic
22 equipment collected through the producer's program annually equals at least 75%
23 of the number of pieces of covered electronic equipment produced by the producer
24 that are sold in this state annually and that the program annually results in the

1 reuse or recycling of at least 65% of the components and materials contained in the
2 covered electronic equipment that is collected.

3 2. That, no later than the first day of the 60th month beginning after approval
4 of the producer's plan under sub. (4), the number of pieces of covered electronic
5 equipment collected through the producer's program annually equals at least 90%
6 of the number of pieces of covered electronic equipment produced by the producer
7 that are sold in this state annually and that the program annually results in the
8 reuse or recycling of at least 95% of the components and materials contained in the
9 covered electronic equipment that is collected.

10 (b) To achieve the performance requirements for orphan ~~electronic~~^{x covered} waste, a
11 producer must demonstrate the following:

12 1. That, no later than the first day of the 24th month beginning after approval
13 of the producer's plan under sub. (4), the amount of orphan ~~electronic~~^{x covered} waste collected
14 through the producer's program annually equals at least the producer's share,
15 determined under par. (c), of 2 kilograms per resident of this state and that the
16 program annually results in the reuse or recycling of at least the producer's share
17 of 1.5 kilograms of the orphan ~~electronic~~^{x covered} waste.

18 2. That, no later than the first day of the 60th month beginning after approval
19 of the producer's plan under sub. (4), the amount of orphan ~~electronic~~^{x covered} waste collected
20 through the producer's program annually equals at least the producer's share,
21 determined under par. (c), of 4 kilograms per resident of this state and that the
22 program annually results in the reuse or recycling of at least the producer's share
23 of 3.5 kilograms of the orphan ~~electronic~~^{x covered} waste.

24 (c) The department shall determine each producer's share for the purposes of
25 par. (b) based on the producer's market share of sales of covered electronic

1 equipment. If a producer does not provide the information under sub. (3) (a) 9. a.,
2 the department shall increase its estimate of the producer's market share by 10%,
3 and adjust its estimates of the market shares[✓] of producers who provide[✓] that
4 information accordingly. The department may adjust its determinations of market
5 share[✓] annually.

6 (d) A producer shall include in its plan submitted under sub. (3)[✓] provisions to
7 ensure that employers of workers who perform activities necessary to collect,
8 transport, reuse, recycle, treat, or dispose of covered electronic waste under the
9 producer's program protect the health and safety of those workers by doing all of the
10 following:

11 1. Providing to the department of workforce development evidence of
12 compliance with state and federal occupational safety and health requirements.

13 2. Performing monitoring of the employers' facilities for all of the substances
14 under sub. (1) (a) 1. to 7.[✓] and reporting the results of the monitoring to the
15 department of workforce development every 3 months.

16 3. Performing human health monitoring of all workers, including blood testing
17 for lead, bromine, chlorine, and mercury compounds, and reporting the results of the
18 monitoring to the department of workforce development every 3 months.

19 (e) A producer shall include in its plan submitted under sub. (3) provisions to
20 ensure that prison labor is not used to collect, transport, reuse, recycle, treat, or
21 dispose of covered electronic waste under the producer's program unless all of the
22 following apply:

23 1. The prisoners are provided with compensation equivalent to market wages
24 for the work performed.

1 2. The prisoners are afforded protections that are at least^e equal to those
2 provided under this state's occupational health and safety laws and rules, in addition
3 to the protections under par. (d).[✓]

~~4~~4 (8) LABELING. Beginning on the first day of the 12th month beginning after the
5 date on which a producer's plan is approved under sub. (4), a producer may not sell
6 covered electronic equipment in this state unless the equipment is labeled with the
7 following information or is accompanied by written material to be provided to the
8 user of the equipment that contains the following information:

~~9~~9 (a) A description of ^xwhich of the substances under sub. (1) (a) 1. to [✓]7. ^xare
10 contained in the covered electronic equipment and of the parts that contain those
11 substances.

12 (b) A description of the prohibitions in s. 287.07 (5) [✓]and (6). [✓]

13 (c) A toll-free telephone number or the address of an Internet site that users
14 of covered electronic equipment can use to obtain information and instructions about
15 disposing of the covered electronic equipment through the producer's program.

16 (9) CONSUMER EDUCATION. A producer shall include in a plan submitted under
~~17~~17 ^{sub.}~~(17)~~(3) provisions for educational activities that are designed to ensure that users
18 of covered electronic equipment understand all of the following:

19 (a) The prohibitions in s. 287.07 (5) [✓]and (6). [✓]

20 (b) The potential effects on human health and the environment of the
21 substances listed in sub. (1) (a) 1. to [✓]7. and the dangers of improper disposal of
22 covered electronic equipment.

23 (c) The available options for discarding covered electronic equipment,
24 including those under the producer's program.

1 (d) The role of users of covered electronic equipment in achieving the reuse,
2 recycling, and other proper disposal of covered electronic equipment.

3 (10) INFORMATION FOR RECYCLERS. A producer shall include in a plan submitted
4 under ^{sub.} ~~(3)~~ (3) provisions for providing, to persons who recycle or disassemble the
5 producer's covered electronic waste, information that is needed to ensure that the
6 recycling is conducted in a manner that protects worker health and safety and that
7 is environmentally sound. In the plan, a producer shall commit itself to providing,
8 to persons who recycle or disassemble the producer's covered electronic waste, the
9 information required by this subsection for a new model of covered electronic
10 equipment within 12 months of the introduction of the new model.

11 (11) REVIEW OF PROGRAM. (a) Within 12 months of approval of its plan and
12 annually thereafter, a producer shall submit a report that demonstrates whether the
13 producer's program is consistent with the approved plan and, for reports submitted
14 after the performance requirements under sub. (7) (a) ✓ and (b) ✓ apply, whether the
15 producer has achieved the performance requirements. In its report, a producer shall
16 show whether its program has resulted in the export of covered electronic waste to
17 any country that is not a member of the Organization for Economic Cooperation and
18 Development.

19 (b) The department shall review each report under par. (a) within 6 months of
20 its submission. Within 3 months after completing its review, the department shall
21 notify a producer of any deficiency in its program. If a producer fails to remedy any
22 deficiencies in ~~the~~ its program by a deadline set by the department, the department
23 shall notify the producer that its program is disapproved and the producer may not
24 sell covered electronic equipment in this state.

1 (c) 1. No later than 20 months after the approval of a producer's plan under sub.
2 (4),[✓] the producer shall submit to the department a proposal for the design and
3 implementation of independent polling of awareness of the producer's program
4 among residents of this state. The department shall notify a producer of any
5 deficiencies in the producer's proposal. If the department determines that an
6 original or modified proposal will accurately measure awareness of the producer's
7 program, the department shall approve the proposal. If a producer fails to remedy
8 any deficiencies in the producer's proposal by a deadline set by the department, the
9 department shall disapprove the proposal and the producer may not sell covered
10 electronic equipment in this state. A group of producers may satisfy the requirement
11 in this subdivision through a joint submission.

12 2. A producer shall conduct the polling provided for in its proposal approved
13 under subd. 1. No later than 4 months after approval of the proposal, the producer
14 shall report the results of the polling to the department.

15 3. If the results reported under subd. 2.[✓] show that less than 85% of the residents
16 of this state are aware of the producer's program, the producer shall submit to the
17 department, within 3 months of reporting the polling results, a proposal for
18 additional educational activities about its program and shall implement the
19 proposal.

20 4. No later than 12 months after submittal of a proposal under subd. 3.,[✓] a
21 producer shall provide evidence to the department of the percentage of state
22 residents who are aware of the producer's program. If the evidence shows that less
23 than 85% of the residents of this state are aware of the producer's program, the
24 producer is subject to a forfeiture equal to \$10,000[✓] times the difference between 85%
25 and the percentage of state residents who are aware of the producer's program.

1 (d) A producer shall make a report submitted under par. (a) available to the
2 public on the Internet for 3 years after it submits the report and shall allow the
3 department to place a link to the report on the department's Internet site.

4 (12) ADDITIONAL HAZARDOUS SUBSTANCES. The department may promulgate
5 rules specifying substances that are harmful to human health or the environment,
6 in addition to the substances in sub. (1) (a) 1. to 6., that cause electronic equipment
7 to be considered covered electronic equipment. The department shall specify all of
8 the following in a rule promulgated under this subsection:

9 (a) A date, at least 6 months after the rule is promulgated, by which a producer
10 of electronic equipment containing the substance must submit to the department a
11 plan under sub. (3) for the electronic equipment or proposed modifications to add the
12 electronic equipment to a plan previously approved under sub. (4).

13 (b) A date, at least 6 months after the rule is promulgated, by which a producer
14 of electronic equipment containing the substance must file with the department
15 proof of financial responsibility under sub. (6) if the producer has not previously filed
16 that proof.

17 (c) A date, at least 12 months after the rule is promulgated, by which a producer
18 of electronic equipment containing the substance must implement the program for
19 electronic equipment containing the substance.

20 (13) WAIVER. A producer may apply to the department for a waiver from the
21 requirements of subs. (3) to (11) if the dollar amount of annual sales in this state of
22 covered electronic equipment by the producer is less than 0.1% of the dollar amount
23 of annual sales in this state of all covered electronic equipment. The department may
24 impose conditions on a waiver under this subsection. A producer that violates

SECTION 3

1 conditions imposed on a waiver under this subsection may not sell covered electronic
2 equipment in this state.

3 (14) FEES. (a) The department shall promulgate rules specifying fees to be paid
4 by producers when they submit plans under sub. (3) and periodic fees to be paid by
5 producers with approved plans. The department shall base a producer's fees on the
6 amount of covered electronic equipment sold in this state by the producer and shall
7 design the fees to cover the costs of administering this section and s. 287.07 (5) ✓ and
8 (6). ✓

9 (b) The department may promulgate a rule specifying fees for granting waivers
10 under sub. (13). ✓

11 (15) RESTRICTIONS ON HAZARDOUS SUBSTANCES IN ELECTRONIC EQUIPMENT. (a)
12 Except as provided in par. (b), beginning on the first day of the 60th month beginning
✓ 13 after the effective date ✓ under sub. (2) (b), no producer may sell electronic equipment
14 in this state that contains any of the following:

- 15 1. Lead.
- 16 2. Mercury.
- 17 3. Cadmium.
- 18 4. Hexavalent chromium.
- 19 5. Brominated flame retardants.
- 20 6. Polyvinyl chloride.

21 (b) The department may grant a limited term exemption ✓ ✓ from the prohibition
22 under par. (a) with respect to a substance if a producer demonstrates to the
23 department that it is technically impossible to substitute a less harmful alternative
24 for the substance. The department shall limit the length of an exemption to ensure
25 that producers have an incentive to identify a less harmful alternative. The

1 department may rescind an exemption when the department determines that it is
2 possible to substitute a less harmful alternative for the substance.

3 (END)

DN Note

(

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1238/P1dn

RCT: j....

Kmg

LPS
Note:
I am not using
Rob's Note
because it was
written before budget
passed & is no
longer needed.
MKT

Rep. Miller:

1. This is a preliminary draft of your proposal concerning electronic waste. The draft is quite complex. Please review it carefully to determine whether it is consistent with your intent. Also, please consider timing and implementation issues.
2. The definition of "electronic equipment" is broad. I have heard that many appliances, for example, now have circuit boards. I do not know which products with circuit boards also contain the hazardous substances specified in the definition of "covered electronic equipment." You may wish to obtain information about exactly what products would be covered by this proposal so that you can determine whether the draft has the coverage that you desire. It appears to me that the coverage of the legislation in some of the other states is not as broad as this proposal.
3. I was confused by the definitions of "orphan waste" and "historic waste" and whether, under the drafting instructions, all covered electronic waste, without respect to who produced it and when it became waste, would be covered by the proposal. For example, it was unclear to me who would be responsible for equipment produced by a producer that went out of business after the requirements of the proposal took effect. I tried to draft the proposal so that each producer selling covered electronic equipment in this state would be responsible for the producer's own equipment that is discarded in this state, without regard to when it is discarded, and that all producers selling covered electronic equipment in this state would share responsibility for covered electronic waste produced by a producer that is out of business or does not sell covered electronic equipment in this state. Please let me know if you see problems with this approach.
4. The definition of ^{covered} orphan waste provides coverage of electronic equipment that is discarded before the effective date of the requirements in the proposal take effect. It is not clear to me, however, how equipment would come into the producer-financed system if it has already been discarded. The draft could be streamlined some by only dealing with equipment that is discarded after the effective date. Alternatively, it might be helpful to make it more clear how equipment that has already been discarded fits into the process.
5. If all of the substances in proposed s. 287.17 (15) are actually eliminated from new electronic equipment five years after this proposal takes effect, only producers that sell

electronic equipment containing beryllium (assuming that DNR does not add any other substances to the definition of covered electronic waste) will still be required to finance recycling plans. All of the covered electronic waste produced by producers who do not use beryllium will become orphan waste. Please consider whether this is a problem.

6. Most of this proposal will only take effect if the attorney general makes the determination in proposed s. 287.17 (2) (a). Contingent effective dates can cause problems. It may be difficult to determine whether other states laws are "substantially similar" to this proposal. The electronic waste legislation introduced in at least some other states seems to be quite different from this proposal and it is possible that if this proposal were enacted, most of it would never take effect.

7. The draft prohibits producers who do not operate plans that comply with the draft's requirements from selling their covered electronic equipment in this state. It is possible for a producer's equipment to be sold in this state without the producer itself selling any of equipment here. The producer may sell to out-of state wholesalers who then sell to retailers in this state. Even if producers sell directly to retailers, they may be able to structure the sales so that the sales do not occur in this state. A somewhat analogous situation ^{occurred in} was the case of *Dean Foods Co. v. Brancel*, 187 F.3d 609 (7th Cir., 1999), in which the 7th Circuit Court of Appeals ruled that Wisconsin's law prohibiting discrimination in pricing by processors purchasing milk could not be applied to an Illinois processor buying milk from Wisconsin dairy farmers because the sale was structured so that it took place outside of this state. An alternative approach would be to prohibit *anyone* from selling equipment of a producer that does not comply with the requirements of this proposal. For examples of requirements that are applicable to manufacturers but that are enforced by sales prohibitions that apply to other persons, see ss. 100.27 (2) to (5), 100.46, 134.77 (2) and (3).

8. The proposal requires a producer's plan to forbid the export of covered electronic waste to certain countries. This provision might be challenged as a violation of the U.S. Constitution's grant to Congress of power to regulate foreign trade. Please let me know if you would like me to research this issue.

9. Proposed s. 287.17 (6) requires producers to post surety bonds. You might want to consider authorizing the use of other forms of proof of financial responsibility. See, for example, s. 100.175 (5) (a) and 289.41 (3) (a).

10. Proposed s. 287.17 (7) (a) requires a producer to show that its program has resulted in the reuse or recycling of a specified percentage of the components and materials contained in the equipment collected under its program. I am unsure how DNR and producers would determine whether this requirement is met. Components could be counted, but it does not seem as though materials could be counted.

11. The penalty for violating the prohibition on sales by producers that do not operate plans that comply with the draft's requirements would be the penalty in s. 287.97, a forfeiture of \$10 to \$1,000 for each violation. Please let me know if you would prefer a different penalty.

12. Should the draft authorize positions for DNR to administer the electronic waste program?

Please contact me with any questions and redraft instructions.

Rebecca C. Tradewell

Managing Attorney

Phone: (608) 266-7290

E-mail: becky.tradewell@legis.state.wi.us

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1238/P1ins
RJM:.....

Insert RJM

✓
SECTION 1. 16.71 (7) of the statutes is created to read:

16.71 (7) The department, any other designated purchasing agent under sub.
(1), and each authority, other than the University of Wisconsin Hospitals and Clinics
Authority, may not purchase electronic equipment, as defined in s. ^{287.17 (1) (c) ✓} ~~XXX.XX~~ from a
vendor that has violated s. ^{287.17 (3) *} ~~XXX.XX~~.

SECTION 2. 16.72 (2) (f) of the statutes is amended to read:

16.72 (2) (f) ~~In~~ Except as provided in par. (g), in writing specifications under
this subsection, the department, any other designated purchasing agent under s.
16.71 (1) and each authority, other than the University of Wisconsin Hospitals and
Clinics Authority, shall incorporate requirements relating to the recyclability and
ultimate disposition of products and, wherever possible, shall write the
specifications so as to minimize the amount of solid waste generated by the state,
consistent with the priorities established under s. 287.05 (12), and to minimize the
amount of hazardous waste generated by the state. All specifications under this
subsection shall discourage the purchase of single-use, disposable products and
require, whenever practical, the purchase of multiple-use, durable products.

History: 1975 c. 41; 1977 c. 418; 1981 c. 20, 350; 1983 a. 92; 1983 a. 333 ss. 3c, 3g, 3n; 3w; 1985 a. 29 ss. 122g, 3200 (1); 1985 a. 332; 1987 a. 119, 292; 1989 a. 31, 335; 1991 a. 39, 269; 1995 a. 27, 227; 1997 a. 27, 212; 1999 a. 9, 32, 105; 2001 a. 16.

SECTION 3. 16.72 (2) (g) of the statutes is created to read:

16.72 (2) (g) In writing specifications under this subsection pertaining to
^{covered} electronic equipment, as defined in s. ^{287.17 (1) (a) ✓} ~~XXX.XX~~, the department, any other designated
purchasing agent under s. 16.71 (1) and each authority, other than the University of
Wisconsin Hospitals and Clinics Authority, shall incorporate terms requiring the
vendor to take possession of or otherwise properly dispose of the electronic

equipment after the equipment is taken out of service by the department, designated purchasing agent, or authority, as applicable.

, as affected by 2003 Wisconsin Act 33,
* **SECTION 4.** 16.75 (1) (a) 1. of the statutes is amended to read:

WA 33 4/2003
* 16.75 (1) (a) 1. All orders awarded or contracts made by the department for all materials, supplies, equipment, and contractual services to be provided to any agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t),
* (6), (7), (8), ~~and (9)~~ *and (10m)* and ss. 16.71 (7), 16.73 (4) (a), 16.751, 16.754, 16.964 (8), 50.05
* *153.05 (2m) (a)*, (7) (f), and 287.15 (7), shall be awarded to the lowest responsible bidder, taking into consideration life cycle cost estimates under sub. (1m), when appropriate, the location of the agency, the quantities of the articles to be supplied, their conformity with the specifications, and the purposes for which they are required and the date of delivery.

History: 1975 c. 224; 1977 c. 418, 419; 1979 c. 34, 221, 314, 340, 355; 1979 c. 361 s. 112; 1981 c. 121 s. 20; 1983 a. 27 ss. 91, 93 to 99; 1983 a. 333 ss. 3g, 3r to 4b, 6; 1983 a. 368, 390; 1985 a. 29 ss. 122m to 124, 3200 (1); 1985 a. 180; 1987 a. 27, 119, 142, 147, 186, 399, 403; 1989 a. 31, 335, 345, 359; 1991 a. 39, 170; 1993 a. 16, 414; 1995 a. 27 ss. 368 to 382, 9116 (5); 1995 a. 225, 227, 244, 289, 432; 1997 a. 3; 1999 a. 9, 44, 197; 2001 a. 16, 38.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1238/P1dn
RCT:kmg:pg

August 18, 2003

Rep. Miller:

1. This is a preliminary draft of your proposal concerning electronic waste. The draft is quite complex. Please review it carefully to determine whether it is consistent with your intent. Also, please consider timing and implementation issues.
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electronic equipment containing beryllium (assuming that DNR does not add any other substances to the definition of "covered electronic waste") will still be required to finance recycling plans. All of the covered electronic waste produced by producers who do not use beryllium will become orphan waste. Please consider whether this is a problem.

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Please contact me with any questions and redraft instructions.

Rebecca C. Tradewell

Managing Attorney

Phone: (608) 266-7290

E-mail: becky.tradewell@legis.state.wi.us

Tradewell, Becky

From: David Wood [david@grn.org]

Sent: Thursday, October 16, 2003 10:10 AM

To: 'Rebecca Tradewell'

Cc: 'Rep.Miller'; 'Kuhn, Jamie'

Subject: Revisions to, comments on LRB1238, electronics recycling

Becky: Attached please find the information assembled by Rep. Miller from various stakeholders in the form of responses to the questions posed in your "Drafter's Note," on the one hand, and suggested amended and substitute language to the bill draft itself, on the other.

I just confirmed the meeting now for NOON on Friday 10/17.

NOTE NEW ADDRESS/PHONE

David Wood

Executive Director, GrassRoots Recycling Network

Organizing Director, Computer TakeBack Campaign

210 N. Bassett St., Suite 200

Madison WI 53703

608-255-4800, ext. 100

608-347-7043 (cell)

david@grn.org

10/16/2003

Wisconsin electronics recycling draft legislation (LRB 1238)

RE: Drafter's cover memo

1. **Definition of "electronic equipment"** is broad, but it is the definition of "covered electronic equipment" that is operative throughout the bill text. That definition, per below, has been amended and reduced in scope.

2. **Definition of "covered electronic equipment"** has been amended to specifically address product types of greatest concern.

3. **Historic and orphan waste.** It is important to distinguish between electronic products that are in the marketplace right now (taken out of use/obsolete, discarded and in storage, in use, on the store shelves, etc.) versus new products entering the marketplace after the effective date of this legislation. The original draft language given to LRB, because it made reference to products having been "discarded," was sufficiently imprecise and created confusion, which lead to a substantial revision in your draft relative to what was intended. In order to reflect the importance of distinguishing between these different "classes" of electronic waste, if you will, new definitions are suggested.

4. The question of **what is covered waste after hazardous substances have been phased out** has been addressed by correcting the list of hazardous substances.

5. The bill language has been revised to include a **date certain**, rather than relying on a percentage of the U.S. population to first be covered by a similar law.

6. **Sales channels** – A question is raised about the constitutionality of regulating sales that may take place outside of Wisconsin. It is the intent of this legislation that all sales channels through which electronic products enter service in Wisconsin be covered under the producer financial responsibility framework. In that light, and as suggested in the drafter's memo, it should prohibit anyone from selling the equipment of a non-complying producer, but limit liability/application of penalties to the producer.

7. **Export of hazardous electronics waste** – The constitutional question is an open one. It is extremely important that any regulation of electronic waste in Wisconsin not result in the export of hazardous products to developing countries, as was the case in California. If the constitutional concerns are so significant, a provision requiring full public disclosure and reporting of any exports is a fall-back position.

8. **Documenting re-use and recycling percentages.** If a producer is obligated to report on and meet goals and timetables, they will demand accountability from those with whom they work in the downstream value chain (brokers, recyclers, etc.) to provide the required information. Rather than state with particularity the details of how to report or how to obtain the necessary information, we have opted for simplicity and deference to producers to manage their obligations.

9. Use of **surety bond** can be supplemented by other means of demonstrating financial responsibility. Ideally, if the bond or other financial guarantee is forfeited as a result of non-performance by the producer, those sums would be used to cover the costs of notice, compliance, and enforcement by the State.

10. **Other penalties.** Penalties should be \$10,000 for each violation.

RE: Amendments to draft bill text – LRB 1238

Page 4, line 12, “Covered electronic equipment” – Amend this section to read

“Covered electronic equipment” means televisions, computer monitors and other video display devices, laptops, central processing units (CPUs), printers, scanners, cellular or other mobile telephones, and any other electronic equipment that the DNR may designate by rule.”

*some
guidance
to DNR
on this?*

Page 4, line 21, “Covered electronic waste” – Amend this to read

“Covered electronic waste” means covered electronic equipment that has become obsolete, been taken out of service, or has been relinquished for recycling or disposal but has not yet entered a solid waste disposal or solid waste treatment facility. ‘Covered electronic waste’ does not include electronic equipment that has been donated for re-use or sold for re-use.”

*?
see
p. 12,
lines 12-19*

Page 4, line 24, insert definition of “Historic waste”

“Historic covered waste” means covered electronic equipment which was first sold prior to the effective date of this act and has become covered electronic waste, the producer of which is still in business.

Page 5, line 1, “Orphan covered waste” – Amend to read

“Orphan covered waste” means historic waste the producer of which is no longer in business.

Page 5, line 11, “Producer”

This bill does not intend to include persons who re-manufacture and re-sell covered electronic equipment. That is, the financial responsibility provisions should still apply to the producer who offers the product for first sale, and not a person who is extending the life of products through remanufacturing and re-use. To this end, please insert the following:

“4. This definition does not include any person who re-manufactures and re-sells covered electronic waste.”

Page 5, line 24 – page 6, line 9 – replace this section with language declaring an effective date set at 24 months following the date of enactment.

Page 7, line 8 – 9, strike current language and replace with

"8. Documentation, such as contracts, letters of intent, and/or memoranda of understanding, that all persons whose participation is needed to implement the provisions under subds . 1 or 2 have agreed to participate."

as a part of this piece
Page 7, lines 19 – 21, strike the current language regarding export prohibitions and substitute with one of the following

add
[Prohibition on export] ?

"No person can export to a non-OECD country:

- a) non-working hazardous electronic wastes, and
- b) working hazardous electronic wastes unless they are certified as working and are destined for direct re-use

Producers must report to the DNR providing documentation that their program, including downstream buyers and contractors, has not resulted in prohibited overseas export."

see sub. (11)(a)

OR

[Disclosure requirement]

Any person who intends to export hazardous electronic waste to a foreign destination either directly or through an intermediary in this state or via another, shall comply with all of the following at least 60 days prior to export:

(a) Notify the department of the destination, contents, and volume of hazardous electronic waste to be exported. Such destinations must include all downstream recycling, re-use or disposal operations in the disposal/recycling chain.

(b) Demonstrate that the importation of covered electronic waste is not prohibited by any applicable law or regulation of the country of destination and that any import is conducted in accordance with all applicable laws. As part of this demonstration, required import and operating licenses shall be forwarded to the department.

(c) Demonstrate that the exportation of covered electronic waste is conducted only in accordance with applicable international law.

Page 7, lines 23 - 24 – clarify by amending to read as follows

"... persons who wish to discard covered electronic equipment to pay a fee at the time of disposal to discard the covered electronic equipment ..."

Page 8, lines 4 – 11, specify deadlines for department review and notification of producers, for instance review within 90 of submission, notify producer of approval or deficiencies within 30 days of completion

Page 9, lines 4 – 17, adjust recovery percentages to reflect the following goals and timetables

- within 24 months of effective date, 50% collection with re-use/recycling of 50% of the collected components/materials
- within 48 months of the effective date, 75% collection with re-use/recycling of 75% of collected components/materials
- within 60 months of effective date, , 90% collection with re-use/recycling of 95% of collected components/materials

Page 9, line 18 – amend this line to read

“(b) To achieve the performance requirements for historic covered waste, a ...”

Moreover, change reference to “orphan covered waste” at **page 9, line 25** and **page 10, line 6** to “historic orphan waste.”

Page 11, line 5 – limit this provision to prisons and prisoners in Wisconsin, by amending to read

“... ensure that prison labor in Wisconsin is not used to collect, transport, re-use, recycle, treat, or...”

page 11, line 13 – insert new subsection (f)

“(f) A producer’s plan shall ensure that opportunities and locations for collection of covered electronic waste is convenient for all citizens”

[Ideally, the bill would mirror the DNR’s current population density standard for recycling programs with the opportunity for a waiver from DNR if it is demonstrated that the collection and recovery locations and opportunities are in fact convenient to use.]

Page 12, line 19 – strike “with 12 months” and replace with “immediately”

Page 13, line 23 – **page 14, line 8** – strike these lines (the requirement that producers demonstrate 85% public awareness of their product recovery and take-back programs)

Page 15, line 19 – **page 16, line 3** – restriction on hazardous substances

The list of covered substances should be:

- lead
- mercury
- cadmium
- beryllium
- hexavalent chromium
- brominated flame retardants
- polyvinyl chloride
- any other substance specified by the department under sub ____

10/17/03 Meeting with David Wood & Rep. Miller:

Treat orphan and historic waste the same way

Drop s. 287.07(6)

Retain an export prohibition, rather than reporting requirement